HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 691 of 2007

Between:

Smt. G. Leelavathamma and another

… Appellants

And

S.K. Ramachandra and three others

… Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri P. Venugopal

Counsel for respondent No.1 : Shri M.S. Ramachandra Rao

7th September, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 23-2-2007 passed by the learned Single Judge in Writ Petition No. 2317 of 2007, para 2 of which reads as under:

> "After getting instructions, learned Assistant Government Pleader for Revenue (General-A) submits that the land is surrendered by compound wall and a board is displayed near the land that trespassers will be prosecuted, and therefore, survey could not be taken up. He also submits that the land is registered in the name of Smt.Neelavatamma. Be that as it is, learned counsel for the petitioner submits that the father of the petitioner S. Krishnam Naidu, who is deponent of the affidavit accompanying the writ petition, will render necessary assistance to respondents in surveying the land and fixing the boundaries. Therefore, this Court observes that as and when S.Krishnam Naidu, father of the petitioner, approaches the second respondent with a copy of this order, necessary steps may be taken for completing the survey within a period of four weeks from

the date of receipt of copy of this order."

We have heard Shri P. Venugopal, learned counsel for the appellants and Shri M.S. Ramachandra Rao, counsel for respondent No.1 and perused the record.

Ordinarily, we would have admitted the appeal and stayed the execution/implementation of the order under challenge only on the ground that the appellants had not been impleaded as parties to the writ petition filed by respondent No.1 for issue of a direction to the official respondents to conduct survey and fix boundaries in respect of Survey No.87/2, 87/3, 87/5 and 87/6 of Daminedu Revenue Village, Tirupathi Rural Mandal, Chittoor District and the learned Single Judge overlooked this fatal defect in the constitution of the writ petition, but we do not consider it necessary to adopt that course, because Shri M.S. Ramachandra Rao, learned counsel for respondent No.1 gave out that the direction given by the learned Single Judge has already been implemented and the concerned authorities have surveyed the land in dispute. He invited our attention to paragraph 4 of the affidavit filed in WAMP No. 620 of 2007 to substantiate his assertion. This being the position, we are convinced that no useful purpose would be served by entertaining the appeal.

Shri P. Venugopal, learned counsel for the appellants complains that his clients did not receive notice from the competent authority about the proposed survey of the subject land. If this is so, the appellants are free to question the action, which may be taken by the State Government or the competent authority on the basis of survey report prepared pursuant to the direction given by the learned Single Judge.

With the above observation, the appeal is disposed of as infructuous with liberty to the appellants to file writ petition or avail

appropriate legal remedy, if their rights or interest are adversely affected by the survey conducted in furtherance of the direction given by the learned Single Judge.

As a sequel to disposal of the appeal, WAMP No. 1393 of 2007 filed by the appellants for interim relief is also disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

September 7, 2007
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